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EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/675,565	VARMA ET AL.	
	Examiner	Art Unit	
	Ian N. Moore	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 December 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *45,47-50 and 57-59* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *45,47-50,52-55 and 57-59* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12-7-07* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings were received on 12-7-2007. These drawings are accepted by the examiner.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claim 45 recite, "***determining... physical and media access control ...", "packaging... physical and media access control ...", "pre-announcing... physical and media access control ..." in a TDMA frame***", determining... **new** physical and media access control ...", "packaging... **new** physical and media access control ...", and "pre-announcing... **new** physical and media access control ..." in a **new** TDMA frame".

Per applicant arguments on pages 9-12, applicant recites "In a preferred embodiment...using those new physical characteristics" (see application, page 3, lines 8-12, and abstract, page 40, lines 4-8). "In a preferred embodiment, this descriptor packet pre-announces the new set of parameters to each transmitter or receiver device...to the new set of parameters" (see application page 13, lines 16-19)" by equating to "new" recited in the claimed invention. Thus, the disclosure fails to provide proper basis for the first set of steps "***determining... physical and media access control ...", "packaging... physical and media access control ...",***

"pre-announcing... physical and media access control ..." in a TDMA frame", that is, performing the steps which does not involve "new".

Claims 50 and 55 are also objected for the same reason as set forth above in claim 45.

Claims 47-49, 52-54, and 57-59 are also objected since they are depended upon objected claims 45, 50 and 55 as set forth above.

Note that this issued is raised solely based on applicant reciting parts of the specification that allegedly supports the claimed invention, and the applicant disclosure does not correspond to the applicant claimed invention detailed by the applicant in the argument on page 9-12. Consequently, applicant's argument triggers that fact that the disclosure fails to provide proper basis for the portions of the claimed invention as set forth above.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 45, 47, 50, 52, 55 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raissinia (US006430193B1) in view of Malmgren (US006807154B1).

Regarding Claim 45, Raissinia discloses a method of adaptation in point to multipoint communication (see FIG. 1-2, a point to multipoint network processing the methods/steps; see col. 3, line 64 to col. 4, line 7), the method including steps of:

determining, by a base station (see FIG. 1-3, head End or central access point 102), physical and media access control parameters to be used by each of plural customer premises equipment (see FIG. 1, subscribers 104; see col. 4, line 55-64; see col. 5, line 1-45; determining/defining physical and MAC layer control information/data (e.g. power adjustment) for one or more subscriber units);

packaging said physical and media access control parameters (see FIG. 3, a combined system of codeword formation 312 and encoding 314,316 encodes/formed/packetizes physical and MAC layer control information/data) in descriptor packets (see FIG. 5A-C, in downstream broadcast/unicast packets/code words; see col. 9, line 16-56) having a fixed size (see col. 4, line 30-40; see col. 5, line 6-35; see col. 6, line 31-40,55-66; dividing each physical and MAC control information/data into a fixed/predefined/predetermined segments known as codewords, and each segmented codeword has a fixed/predefined/predetermined length/size/bytes); and

pre-announcing said physical and media access control parameters to said customer premises equipment by sending said descriptor packets from said base station to said customer premises equipment (see FIG. 1,3, transmitter system 318 broadcasts/transmits downstream packets/codewords with physical and MAC control information (i.e. power adjustment or preambles) to subscriber/subscribers 104 from central access point 102; see col. 5, line 30-45; see col. 6, line 6-11,24-35,55-60; see col. 8, line 38-45), with each descriptor packet sent as a first packet in a time division multiple access frame (see col. 4, line 25-40; see col. 5, line 30-35; see col. 6, line 45-65; each downstream packet/codeword is a broadcast/SYNC packet which is a first packet, transmitted in the first time slot, in the time division multiple access (TDMA) frame; also see FIG. 5A-C, broadcast codewords (e.g. power control) of FIG. 5A, 5C are

transmitted in first packet/data 504, at the beginning/first packet/data in the TDMA frame; see col. 9, line 16-55);

determining, by said base station (see FIG. 1-3, head End or central access point 102), physical and media access control parameters to be used by each of plural customer premises equipment (see FIG. 1, subscribers 104; see col. 4, line 55-64; see col. 5, line 1-45; determining/defining physical and MAC layer control information/data (i.e. power adjustment) for one or more subscriber units);

packaging said physical and media access control parameters (see FIG. 3, a combined system of codeword formation 312 and encoding 314,316 encodes/formed/packetizes physical and MAC layer control information/data) in descriptor packets (see FIG. 5A-C, in downstream broadcast/unicast packets/code words; see col. 9, line 16-56) having a fixed size (see col. 4, line 30-40; see col. 5, line 6-35; see col. 6, line 31-40,55-66; dividing each physical and MAC control information/data into a fixed/predefined/predetermined segments known as codewords, and each segmented codeword has a fixed/predefined/predetermined length/size/bytes); and

pre-announcing said physical and media access control parameters to said customer premises equipment by sending said descriptor packets from said base station to said customer premises equipment (see FIG. 1,3, transmitter system 318 broadcasts/transmits downstream packets/codewords with physical and MAC control information (i.e. power adjustment or preambles) to subscriber/subscribers 104 from central access point 102; see col. 5, line 30-45; see col. 6, line 6-11,24-35,55-60; see col. 8, line 38-45), with each descriptor packet sent as a first packet in a time division multiple access frame (see col. 4, line 25-40; see col. 5, line 30-35; see col. 6, line 45-65; each downstream packet/codeword is a broadcast/SYNC packet which is a

first packet, transmitted in the first time slot, in the TDMA frame; also see FIG. 5A-C, broadcast codewords (e.g. power control) of FIG. 5A, 5C are transmitted in first packet/data 504, at the beginning/first packet/data in the TDMA frame; see col. 9, line 16-55).

In general Raissinia discloses all steps of "determining…", "packaging…", "pre-announcing…in a TDMA frame", determining…", "packaging…", and "pre-announcing…in a TDMA frame" as set forth above.

Raissinia does not explicitly disclose **new**.

However, it is well known in the art of mobile communication that TDMA frame is send more than one time in the mobile communication, and the parameters embedded within a new/updated/another TDMA frame is "new/updated/another" parameter. Thus, Raissinia's steps/functions of "determining…", "packaging…", and "pre-announcing…in a TDMA frame" can be repeated for another/new/update TDMA frame with new/updated/another parameter.

In particular, Malmgren teaches updating and broadcasting new parameters with descriptor packet as a first packet in TDMA frame (see FIG. 2, see col. 4, line 9-15, 30-67; see col. 5, line 55 to col. 6, line 10; abstract; dynamically updating new/updated/another with Broadcast Control Channel (BCCH) as a first data/packet in TDMA frame (see FIG. 2-3); note that updating occurs at second/new transmission after first transmission).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide performing the same steps with a new/updated/another parameter, by Malmgren in the system of Raissinia, so that it would provide additional/new physical layer control information such as scheduling information and/or frequency control information to the subscribers; see Raissinia see col. 5, line 29-35; and it would also provide a

spectrum efficient radio link adaptation by using BCCH to adapt the radio cell to prevailing radio condition, Malmgren col. 3, line 30-40.

Regarding Claim 47, Raissinia discloses wherein said physical and media access control parameters are in a first layer of an OSI model communication system (see col. 4, line 30-40; physical and MAC layers control information are in the first layer (i.e. physical connection- layer 1) of OSI multilayer model).

Regarding Claim 50, Raissinia discloses a base station (see FIG. 1-3, head End or central access point 102) for use with point to multipoint communication (see FIG. 1, point to multipoint wireless network (i.e. from Head end 102 to subscribers 104); see col. 3, line 64 to col. 4, line 7), comprising:

at least one antenna (see FIG. 2, antenna that couples to upstream 306 and downstream physical layer 308; see col. 5, line 46-57);

a processor (sees FIG. 2, CPU 302; see col. 5, line 46-57);

program and data memory (see FIG. 2, a memory must be present to stores the programs/instructions/methods for CPU 302 to process; see col. 5, line 46-57); and

communication elements that send and receive information over said communication link using said antenna under control of said processor (see FIG. 3, Upstream block 306 and downstream block 308 receives/sends data signals over the radio link using antenna according to CPU 302 since CPU 302 coordinates overall operation of headed 102; see col. 5, line 46-57);

wherein said processor operates under control of instructions stored in said memory (see FIG. 2, CPU 302 coordinates overall operating of headed 102 according to the

methods/instructions stored in the memory; see col. 5, line 46-57), said instructions including steps of:

determining physical and media access control parameters to be used by each of plural customer premises equipment (see FIG. 1, subscribers 104; see col. 4, line 55-64; see col. 5, line 1-45; determining/defining physical and MAC layer control information/data for one or more subscriber units);

packaging said physical and media access control parameters (see FIG. 3, a combined system of codeword formation 312 and encoding 314,316 encodes/formed/packetizes physical and MAC layer control information/data) in descriptor packets (see FIG. 5A-C, in downstream broadcast/unicast packets/code words; see col. 9, line 16-56) having a fixed size (see col. 4, line 30-40; see col. 5, line 6-35; see col. 6, line 31-40,55-66; dividing each physical and MAC control information/data into a fixed/predefined/predetermined segments known as codewords, and each segmented codeword has a fixed/predefined/predetermined length/size/bytes); and

pre-announcing said physical and media access control parameters to said customer premises equipment by sending said descriptor packets from said base station to said customer premises equipment (see FIG. 1,3, transmitter system 318 broadcasts/transmits downstream packets/codewords with physical and MAC control information (i.e. power adjustment) to subscriber/subscribers 104 from central access point 102; see col. 5, line 30-45; see col. 6, line 6-11,24-35,55-60; see col. 8, line 38-45), with each descriptor packet sent as a first packet in a time division multiple access frame (see col. 4, line 25-40; see col. 5, line 30-35; see col. 6, line 45-65; each downstream packet/codeword is a broadcast/SYNC packet which is a first packet, transmitted in the first time slot, in the TDMA frame; also see FIG. 5A-C, broadcast codewords

(e.g. power control) of FIG. 5A, 5C are transmitted in first packet/data 504, at the beginning/first packet/data in the TDMA frame; see col. 9, line 16-55);

determining, by said base station (see FIG. 1-3, head End or central access point 102), physical and media access control parameters to be used by each of plural customer premises equipment (see FIG. 1, subscribers 104; see col. 4, line 55-64; see col. 5, line 1-45; determining/defining physical and MAC layer control information/data (i.e. power adjustment) for one or more subscriber units);

packaging said physical and media access control parameters (see FIG. 3, a combined system of codeword formation 312 and encoding 314,316 encodes/formed/packetizes physical and MAC layer control information/data) in descriptor packets (see FIG. 5A-C, in downstream broadcast/unicast packets/code words; see col. 9, line 16-56) having a fixed size (see col. 4, line 30-40; see col. 5, line 6-35; see col. 6, line 31-40,55-66; dividing each physical and MAC control information/data into a fixed/predefined/predetermined segments known as codewords, and each segmented codeword has a fixed/predefined/predetermined length/size/bytes); and

pre-announcing said physical and media access control parameters to said customer premises equipment by sending said descriptor packets from said base station to said customer premises equipment (see FIG. 1,3, transmitter system 318 broadcasts/transmits downstream packets/codewords with physical and MAC control information (i.e. power adjustment or preambles) to subscriber/subscribers 104 from central access point 102; see col. 5, line 30-45; see col. 6, line 6-11,24-35,55-60; see col. 8, line 38-45), with each descriptor packet sent as a first packet in a time division multiple access frame (see col. 4, line 25-40; see col. 5, line 30-35; see col. 6, line 45-65; each downstream packet/codeword is a broadcast/SYNC packet which is a

first packet, transmitted in the first time slot, in the TDMA frame; also see FIG. 5A-C, broadcast codewords (e.g. power control) of FIG. 5A, 5C are transmitted in first packet/data 504, at the beginning/first packet/data in the TDMA frame; see col. 9, line 16-55).

In general Raissinia discloses all steps of "determining...", "packaging...", "pre-announcing...in a TDMA frame", determining...", "packaging...", and "pre-announcing...in a TDMA frame" as set forth above.

Raissinia does not explicitly disclose **new**.

However, it is well known in the art of mobile communication that TDMA frame is send more than one time in the mobile communication, and the parameters embedded within a new/updated/another TDMA frame is "new/updated/another" parameter. Thus, Raissinia's steps/functions of "determining...", "packaging...", and "pre-announcing...in a TDMA frame" can be repeated for another/new/update TDMA frame with new/updated/another parameter.

In particular, Malmgren teaches updating and broadcasting new parameters in a TDMA frame (see FIG. 2, see col. 4, line 9-15, 30-67; see col. 5, line 55 to col. 6, line 10; abstract; dynamically updating new/updated/another with Broadcast Control Channel (BCCH) as a first data/packet in TDMA frame (see FIG. 2-3); note that updating occurs at second/new transmission after first transmission).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide performing the same steps with a new/updated/another parameter, by Malmgren in the system of Raissinia, so that it would provide additional/new physical layer control information such as scheduling information and/or frequency control information to the subscribers; see Raissinia see col. 5, line 29-35; and it would also provide a

spectrum efficient radio link adaptation by using BCCH to adapt the radio cell to prevailing radio condition, Malmgren col. 3, line 30-40.

Regarding Claim 52, Raissinia discloses wherein said physical and media access control parameters are in a first layer of an OSI model communication system (see col. 4, line 30-40; physical and MAC layers control information are in the first layer (i.e. physical connection- layer 1) of OSI multilayer model).

Regarding Claim 55, Raissinia discloses a memory storing information including instructions (see FIG. 2, a memory must be present to stores the programs/instructions/methods for CPU 302 to process; see col. 5, line 46-57), the instructions executable by a processor (see FIG. 2, CPU 302; see col. 5, line 46-57) to control a base station (see FIG. 1-3, head End or central access point 102) for use with point to multipoint communication (see FIG. 1, point to multipoint wireless network (i.e. from Head end 102 to subscribers 104); see col. 3, line 64 to col. 4, line 7), the instructions including steps of:

determining, by a base station (see FIG. 1-3, head End or central access point 102), physical and media access control parameters to be used by each of plural customer premises equipment (see FIG. 1, subscribers 104; see col. 4, line 55-64; see col. 5, line 1-45; determining/defining physical and MAC layer control information/data (e.g. power adjustment) for one or more subscriber units);

packaging said physical and media access control parameters (see FIG. 3, a combined system of codeword formation 312 and encoding 314,316 encodes/formed/packetizes physical and MAC layer control information/data) in descriptor packets (see FIG. 5A-C, in downstream broadcast/unicast packets/code words; see col. 9, line 16-56) having a fixed size (see col. 4, line

30-40; see col. 5, line 6-35; see col. 6, line 31-40,55-66; dividing each physical and MAC control information/data into a fixed/predefined/predetermined segments known as codewords, and each segmented codeword has a fixed/predefined/predetermined length/size/bytes); and

pre-announcing said physical and media access control parameters to said customer premises equipment by sending said descriptor packets from said base station to said customer premises equipment (see FIG. 1,3, transmitter system 318 broadcasts/transmits downstream packets/codewords with physical and MAC control information (i.e. power adjustment) to subscriber/subscribers 104 from central access point 102; see col. 5, line 30-45; see col. 6, line 6-11,24-35,55-60; see col. 8, line 38-45), with each descriptor packet sent as a first packet in a time division multiple access frame (see col. 4, line 25-40; see col. 5, line 30-35; see col. 6, line 45-65; each downstream packet/codeword is a broadcast/SYNC packet which is a first packet, transmitted in the first time slot, in the TDMA frame; also see FIG. 5A-C, broadcast codewords (e.g. power control) of FIG. 5A, 5C are transmitted in first packet/data 504, at the beginning/first packet/data in the TDMA frame; see col. 9, line 16-55);

determining, by said base station (see FIG. 1-3, head End or central access point 102), physical and media access control parameters to be used by each of plural customer premises equipment (see FIG. 1, subscribers 104; see col. 4, line 55-64; see col. 5, line 1-45; determining/defining physical and MAC layer control information/data (e.g. power adjustment) for one or more subscriber units);

packaging said physical and media access control parameters (see FIG. 3, a combined system of codeword formation 312 and encoding 314,316 encodes/formed/packetizes physical and MAC layer control information/data) in descriptor packets (see FIG. 5A-C, in downstream

broadcast/unicast packets/code words; see col. 9, line 16-56) having a fixed size (see col. 4, line 30-40; see col. 5, line 6-35; see col. 6, line 31-40,55-66; dividing each physical and MAC control information/data into a fixed/predefined/predetermined segments known as codewords, and each segmented codeword has a fixed/predefined/predetermined length/size/bytes); and

pre-announcing said physical and media access control parameters to said customer premises equipment by sending said descriptor packets from said base station to said customer premises equipment (see FIG. 1,3, transmitter system 318 broadcasts/transmits downstream packets/codewords with physical and MAC control information (i.e. power adjustment) to subscriber/subscribers 104 from central access point 102; see col. 5, line 30-45; see col. 6, line 6-11,24-35,55-60; see col. 8, line 38-45), with each descriptor packet sent as a first packet in a time division multiple access frame (see col. 4, line 25-40; see col. 5, line 30-35; see col. 6, line 45-65; each downstream packet/codeword is a broadcast/SYNC packet which is a first packet, transmitted in the first time slot, in the TDMA frame; also see FIG. 5A-C, broadcast codewords (e.g. power control) of FIG. 5A, 5C are transmitted in first packet/data 504, at the beginning/first packet/data in the TDMA frame; see col. 9, line 16-55).

In general Raissinia discloses all steps of "determining...", "packaging...", "pre-announcing...in a TDMA frame", determining...", "packaging...", and "pre-announcing...in a TDMA frame" as set forth above.

Raissinia does not explicitly disclose **new**.

However, it is well known in the art of mobile communication that TDMA frame is send more than one time in the mobile communication, and the parameters embedded within a new/updated/another TDMA frame is "new/updated/another" parameter. Thus, Raissinia's

steps/functions of "determining...", "packaging...", and "pre-announcing...in a TDMA frame" can be repeated for another/new/update TDMA frame with new/updated/another parameter.

In particular, Malmgren teaches updating and broadcasting new parameters in a TDMA frame (see FIG. 2, see col. 4, line 9-15, 30-67; see col. 5, line 55 to col. 6, line 10; abstract; dynamically updating new/updated/another with Broadcast Control Channel (BCCH) as a first data/packet in TDMA frame (see FIG. 2-3); note that updating occurs at second/new transmission after first transmission).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide performing the same steps with a new/updated/another parameter, by Malmgren in the system of Raissinia, so that it would provide additional/new physical layer control information such as scheduling information and/or frequency control information to the subscribers; see Raissinia see col. 5, line 29-35; and it would also provide a spectrum efficient radio link adaptation by using BCCH to adapt the radio cell to prevailing radio condition, Malmgren col. 3, line 30-40.

Regarding Claim 57, Raissinia discloses wherein said physical and media access control parameters are in a first layer of an OSI model communication system (see col. 4, line 30-40; physical and MAC layers control information are in the first layer (i.e. physical connection- layer 1) of OSI multilayer model).

5. Claims 48,49,53,54,58 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raissinia in view of Malmgren, and further in view of Newton Telecom Dictionary (hereinafter refers as Newton).

Regarding Claim 48, Raissinia discloses wherein said step of determining said physical and media access control parameters is responsive to a higher level layer (see col. 4, line 30-40; col. 5, line 1-4, 46-56; see col. 6, line 30-36, 44-50; see col. 7, line 12-16, 55-60; col. 9, line 16-25; determining/defining physical and MAC layer control information/data (i.e. power adjustment) is reacting/in-response-to/receptive to the higher layer). Raissinia also discloses layers in access point and subscriber units correspond to layers of OSI multi-layer model of communication (see col. 4, line 25-35). Malmgren discloses the "new" physical and media access control parameters as set forth above in claim 45.

Neither Raissinia nor Malmgren explicitly discloses higher level layer in said OSI model communication system.

However, it is well known in the art that OSI model contains higher level layers as established by International Standards Organization (ISO) standard. In particular, Newton discloses higher level layer in said OSI model communication system (see OSI Model and OSI standards, page 497-498; higher layers 3-7).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide higher level layers of OSI, as taught by Newton, in the combined system of Raissinia and Malmgren, so that it would provide a network design framework to allow equipment from different vendors to be able to communicate; see Newton OSI standard, page 498.

Regarding Claim 49, Raissinia discloses higher level layer as set forth above in claim 48. Further, Raissinia discloses wherein said first layer includes a physical layer (see col. 4, line 30-40; the lowest/first layer in OSI standard model is a physical layer).

Neither Raissinia nor Malmgren explicitly discloses at least one of: a media access layer, a network layer, a transport layer, an application layer.

However, it is well known in the art that OSI model contains a media access layer, a network layer, a transport layer, and application layer as established by International Standards Organization (ISO) standard. In particular, Newton discloses said higher OSI level layer includes at least one of OSI standard layer one of a data link layer 2 (i.e. media access layer), a network layer 3, and an application layer 7; see OSI model page 497).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide OSI media access layer, a network layer, a transport layer, or an application layer, as taught by Newton, in the combined system of Raissinia and Malmgren, so that it would provide a network design framework to allow equipment from different vendors to be able to communicate; see Newton OSI standard, page 498.

Regarding Claim 53, Raissinia discloses wherein said step of determining said physical and media access control parameters is responsive to a higher level layer (see col. 4, line 30-40; col. 5, line 1-4, 46-56; see col. 6, line 30-36, 44-50; see col. 7, line 12-16, 55-60; col. 9, line 16-25; determining/defining physical and MAC layer control information/data (i.e. power adjustment) is reacting/in-response-to/receptive to the higher layer). Raissinia also discloses layers in access point and subscriber units correspond to layers of OSI multi-layer model of communication (see col. 4, line 25-35). Malmgren discloses the "new" physical and media access control parameters as set forth above in claim 50.

Neither Raissinia nor Malmgren explicitly discloses higher level layer in said OSI model communication system.

However, it is well known in the art that OSI model contains higher level layers as established by International Standards Organization (ISO) standard. In particular, Newton discloses higher level layer in said OSI model communication system (see OSI Model and OSI standards, page 497-498; higher layers 3-7).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide higher level layers of OSI, as taught by Newton, in the combined system of Raissinia and Malmgren, so that it would provide a network design framework to allow equipment from different vendors to be able to communicate; see Newton OSI standard, page 498.

Regarding Claim 54, Raissinia discloses higher level layer as set forth above in claim 48. Further, Raissinia discloses wherein said first layer includes a physical layer (see col. 4, line 30-40; the lowest/first layer in OSI standard model is a physical layer).

Neither Raissinia nor Malmgren explicitly discloses at least one of: a media access layer, a network layer, a transport layer, an application layer.

However, it is well known in the art that OSI model contains a media access layer, a network layer, a transport layer, and application layer as established by International Standards Organization (ISO) standard. In particular, Newton discloses said higher OSI level layer includes at least one of OSI standard layer one of a data link layer 2 (i.e. media access layer), a network layer 3, and an application layer 7; see OSI model page 497).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide OSI media access layer, a network layer, a transport layer, or an application layer, as taught by Newton, in the combined system of Raissinia and Malmgren,

so that it would provide a network design framework to allow equipment from different vendors to be able to communicate; see Newton OSI standard, page 498.

Regarding Claim 58, Raissinia discloses wherein said step of determining said physical and media access control parameters is responsive to a higher level layer (see col. 4, line 30-40; col. 5, line 1-4, 46-56; see col. 6, line 30-36, 44-50; see col. 7, line 12-16, 55-60; col. 9, line 16-25; determining/defining physical and MAC layer control information/data (i.e. power adjustment) is reacting/in-response-to/receptive to the higher layer). Raissinia also discloses layers in access point and subscriber units correspond to layers of OSI multi-layer model of communication (see col. 4, line 25-35). Malmgren discloses the "new" physical and media access control parameters as set forth above in claim 55.

Neither Raissinia nor Malmgren explicitly discloses higher level layer in said OSI model communication system.

However, it is well known in the art that OSI model contains higher level layers as established by International Standards Organization (ISO) standard. In particular, Newton discloses higher level layer in said OSI model communication system (see OSI Model and OSI standards, page 497-498; higher layers 3-7).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide higher level layers of OSI, as taught by Newton, in the combined system of Raissinia and Malmgren, so that it would provide a network design framework to allow equipment from different vendors to be able to communicate; see Newton OSI standard, page 498.

Regarding Claim 59, Raissinia discloses higher level layer as set forth above in claim 48. Further, Raissinia discloses wherein said first layer includes a physical layer (see col. 4, line 30-40; the lowest/first layer in OSI standard model is a physical layer).

Neither Raissinia nor Malmgren explicitly discloses at least one of: a media access layer, a network layer, a transport layer, an application layer.

However, it is well known in the art that OSI model contains a media access layer, a network layer, a transport layer, and application layer as established by International Standards Organization (ISO) standard. In particular, Newton discloses said higher OSI level layer includes at least one of OSI standard layer one of a data link layer 2 (i.e. media access layer), a network layer 3, and an application layer 7; see OSI model page 497).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide OSI media access layer, a network layer, a transport layer, or an application layer, as taught by Newton, in the combined system of Raissinia and Malmgren, so that it would provide a network design framework to allow equipment from different vendors to be able to communicate; see Newton OSI standard, page 498.

Response to Arguments

6. Applicant's arguments filed 12/7/07 have been fully considered but they are not persuasive.

Regarding claims 45, 47-50, 52-55, 57-59, the applicant argued that, "...after reviewing Malmgren, applicant see no reference of a "new" frame...There is no mention in Malmgren of "new". Applicants disagree with the examiner that Malmgren or Raissinia infer a

teaching of "new". The updating occurring at a second transmission after a first transmission is not "new" in Malmgren. Applicant teach "In a preferred embodiment...using those new physical characteristics" (see application, page 3, lines 8-12, and abstract, page 40, lines 4-8). "In a preferred embodiment, this descriptor packet pre-announces the new set of parameters to each transmitter or receiver device...to the new set of parameters" (see application page 13, lines 16-19)" in page 10-12.

In response to applicant's argument, the examiner respectfully disagrees with the argument above.

(1) Raissinia discloses all steps of "determining...", "packaging...", "pre-announcing...in a TDMA frame", determining...", "packaging...", and "pre-announcing...in a TDMA frame" Also, it is well known in the art of mobile communication that TDMA frame is send more than one time in the mobile communication, and the parameters embedded within a new/updated/another TDMA frame is "new/updated/another" parameter. Thus, Raissinia's steps/functions of "determining...", "packaging...", and "pre-announcing...in a TDMA frame" can be repeated for another/new/update TDMA frame with new/updated/another parameter. Malmgren teaches updating and broadcasting new parameters with descriptor packet as a first packet in TDMA frame (see FIG. 2, see col. 4, line 9-15, 30-67; see col. 5, line 55 to col. 6, line 10; abstract; dynamically updating new/updated/another with Broadcast Control Channel (BCCH) as a first data/packet in TDMA frame (see FIG. 2-3); note that updating occurs at second/new transmission after first transmission).

Thus, it is clear that the combined system of Raissinia and Malmgren discloses the argued claimed limitation.

(2) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., **any specific limitation recited in the page 3 and page 13 of applicant disclosures**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(3) Even if these are being claimed, the combined system of Raissinia and Malmgren still discloses applicant invention for the reasons set forth below.

(i) In view of applicant's specification, as indicated by the applicant in the above argument, discloses the mainly "new" physical and MAC characteristic (i.e. physical parameters). Moreover, per FIG. 3A, discloses the steps (i.e. determining…", "packaging…", "pre-announcing" in a TDMA frame. Per specification page xx, lines xx, it recites "the follow point 310 is reached repeatedly and the steps thereafter are performed repeatedly for each TDMA frame 210".

(ii) In view of applicant's claimed invention steps, which discloses "determining…", "packaging…", "pre-announcing…" in a TDMA frame, then repeating determining…", "packaging…", and "pre-announcing…" in a new TDMA frame.

(iii) Thus, when comparing applicant disclosures to applicant claimed invention, the first set of steps "determining…", "packaging…", "pre-announcing…" are performed for a new TDMA frame, then the second identical steps "determining…", "packaging…", "pre-announcing…" are repeated for next/another/updated new TDMA frame.

(iv) Applicant erroneously arguing by equating the second set of steps "determining...", "packaging...", "pre-announcing..." are performed for a new TDMA frame recited in the claims as the first set of steps "determining...", "packaging...", "pre-announcing..." are performed for a new TDMA frame disclosed in the specification. In other words, as recited in the applicant disclosure, the term "new" referred to the new TDMA frame that is transmitted during the first set of steps, not the TDMA frame transmitted during the second set of steps, since per specification and FIG. 3, the second set of steps are repeated for next/another/subsequent TDMA frame.

Again, in view of application specification and claimed invention, the Raissinia and Malmgren clearly disclose "new" physical and MAC characteristic (i.e. physical parameters).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian N. Moore whose telephone number is 571-272-3085. The examiner can normally be reached on 9:00 AM- 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 571-272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit 2616

1-2-2008

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